

# Approving Bodies



Issue Paper Discussion  
City of Rockville, Maryland

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**City of Rockville  
Zoning Ordinance Revision  
Issue Paper**

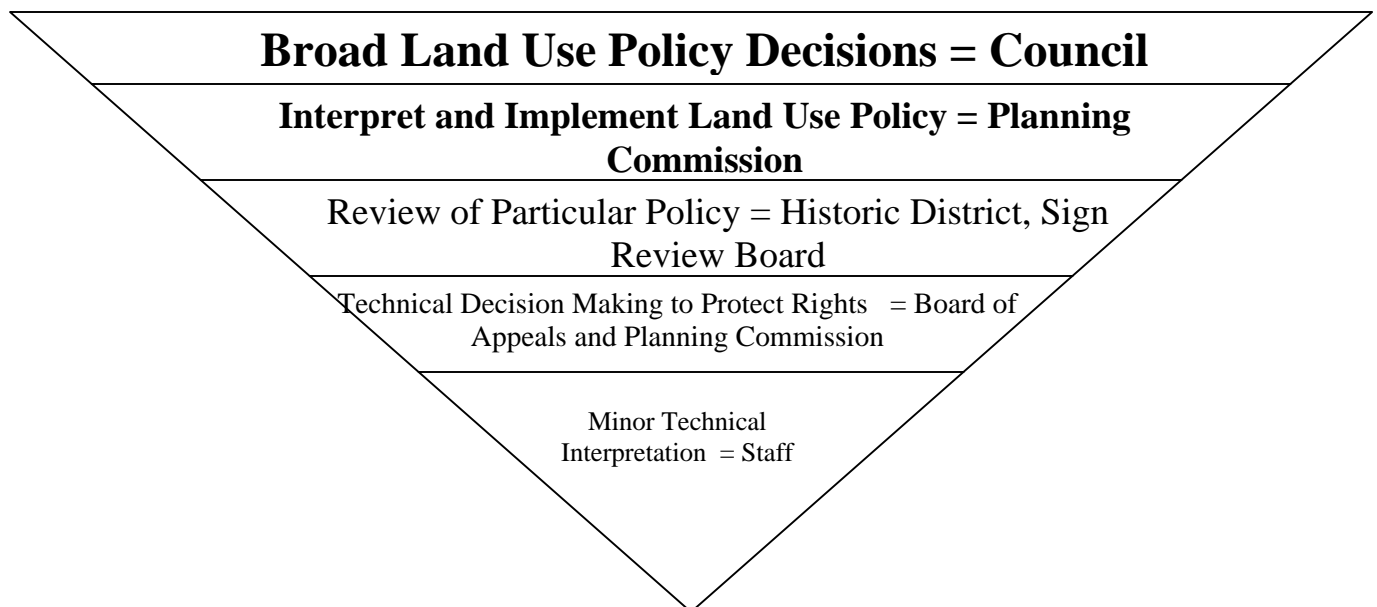
# **Approving Bodies**

## **I. INTRODUCTION**

The term “approving bodies” for purposes of the Rockville City Zoning Revision means those bodies (and staff) appointed (Board of Appeals, Planning Commission, etc.) or elected (as is the case with the Mayor and Council) to review and consider land use issues. Each body has a special responsibility with regard to land use decisions, which is outlined either in state law or in the zoning ordinance.

Local governments are given their authority to regulate land use through state enabling law. In Maryland the applicable enabling law for the City is found in Article 66B of the Code of Maryland. This law provides municipalities and certain county governments the tools and incentives to manage or channel local growth themselves, or subject to state law applicable to the County.

The hierarchy of land use decision making within the local government can be thought of as an inverse pyramid. The broad policy decisions are found at the top, while the minor technical interpretations are at the bottom. Each approving body has their individual authority to do only certain things.



Legislative power, or the power to make laws and establish public policy, is entrusted to the Mayor and Council. The Mayor and Council may regulate 1) the type of use, 2) the density of use, 3) the aesthetic impacts, or 4) the effect of the use on land. These powers are seen in all types of zoning regulations

(Euclidean, Form-Based, and Performance) that have been discussed in other White Papers presented to the Mayor and Council.

Local legislative bodies, like Rockville's Mayor and Council, may not delegate their power to make laws, but may delegate other matters to local agencies, with clear policy guidelines. This authority to delegate provides staff, City boards, and commissions with the power to make some administrative interpretations. Administrative authority should be outlined in the zoning ordinance, which is adopted by the legislative power of Council.

City boards and commissions function as quasi-judicial bodies subject to procedural due process requirements. In particular, these bodies (Planning Commission, Board of Appeals, Historic District Commission, and the Sign Review Board) must:

1. Hold formal hearings on matters for decision,
2. Avoid communicating with interested parties outside of hearings (ex parte),
3. Provide the opportunity for all parties to be heard, and
4. Prepare written findings of fact and conclusions based on the evidence presented.

A quasi-judicial body means that the board or commission has the authority to hear cases though no one on the board or commission is required to be a judge or even to have gone to law school. The findings of fact necessary to make a decision on a case is similar to the requirements in a court of law, hence the name "quasi-judicial." The board makes decisions which they must support through written findings of fact. This is a requirement to protect citizens' due process rights. Due process refers to the constitutional protections which ensure that decisions are not unreasonable, arbitrary, or capricious. Due process also ensures that citizens have sufficient notice and opportunity to be heard in an orderly proceeding, including cases before City boards and commissions.

There are several approving bodies that may conduct planning and zoning review and approvals in Maryland including Planning Commissions, Boards of Appeal, City Councils, and Historic District Commissions. Other boards that might also exist in Maryland are Site Design and Architectural Review, Sign Review Board, and Hearing Examiners. This paper will provide an overview of the state and City requirements of board organization for the City's current boards. In addition, Parts III and IV discuss the boards' decision-making processes with regard to time and authority to review.

In general, staff is satisfied with the policies and procedures of the City's boards. The revision is an opportunity to clarify a few points and make some small changes. Those recommended changes are:

1. To include the same types of regulations provided in the ordinance for each board;
2. To include the allowance of and procedures for administrative adjustments; and
3. To clarify the roles of Boards in land use decisions by providing more purpose language for each Board.

## **II. APPROVING BODIES IN THE CITY OF ROCKVILLE**

Local authority to regulate land use decisions is limited by the authority granted by the state. In Maryland, that authority is provided broadly, authorizing local governments to use a variety of methods to implement land use regulation.

As stated above, Article 66B of the Annotated Code of Maryland delegates basic planning and land use regulatory powers to the State's municipalities and counties. The Article establishes comprehensive planning requirements, zoning controls, and authorizes legislation for such items as Transfer of Development Rights, development rights and responsibilities, affordable housing density bonus, and flexible zoning options, just to name a few. For incorporated municipalities, such as the City of Rockville, additional authority is enumerated in Article 23A. Both of these provisions govern local government authority in the City of Rockville. (NOTE: Montgomery and Prince George's counties are governed under Article 28 of the Maryland Code. Article 28 establishes the Maryland-National Capital Park and Planning Commission as the planning agency for those two counties.)

Article 66B provides set regulations with regard to the organization and membership (composition, appointment, etc.) for the Planning Commission, Board of Appeals, and Historic District Commission. In addition, the state law sets out broad powers for each board. Local jurisdictions must implement those requirements that the state law mandates (board composition, organization, requirements) but has more flexibility in implementing the non-mandated land use alternatives (i.e. those flexible land use regulations that the City is not required to implement like Transfer of Development Rights).

The following outlines the organization of each board in the City of Rockville. Information provided in parenthesis are 66B requirements, which may be different from or in addition to the current regulations. Following this outline is a comparative chart of the different boards. One overarching question of the revision is whether to make the requirements for boards more parallel. In other words, should the blank spaces of the comparative chart be completed? As a solution, the revision could:

1. Keep what regulations are currently provided without changing anything;
2. Fill in the gaps in local regulation so that all information is provided in the zoning ordinance, or
3. Reference the requirements of Maryland Code and set out all other requirements in the Rules of Procedure adopted for each board.

### **A. Planning Commission**

The Planning Commission is a quasi-judicial body that considers land use planning matters, including development, redevelopment, and preservation issues. The Commission advises both the Board of Appeals and Mayor and Council on land use decisions. The specific duties of the Commission are enumerated by the local legislative authority and by the provisions of state enabling law (66B). General powers include approving a Master Plan, hearing proposals to rezone land, reviewing site plans, and taking action on proposed subdivisions.

Sections 25-36 through 25-39 of the Code of Rockville govern the Planning Commission's creation, members, and powers and duties. Generally, the Planning Commission has the following requirements:

1. Membership: The Board shall consist of seven (7) members (*66B: 5 or 7 members*)
2. Term: The term of each member shall be five (5) years and staggered.
3. Chairman: The Planning Commission shall elect a chairman from one of the appointed members of the Planning Commission who shall serve one (1) year with possible reelection.
4. Duties and Powers: The Commission has all the power established by the city code and Article 66B.
  - a. Reviews and makes recommendations to the Mayor and Council on all applications for zoning map and text amendments;
  - b. Reviews and makes recommendations to the Board of Appeals on all variance and special exception applications;
  - c. Reviews and decides application for use permits;
  - d. Reviews and approves all subdivision plans; and
  - e. Initiates and conducts other planning studies and functions as are necessary in the overall planning operations.

The following are conferred by Article 66B:

- a. *(Approve and recommend the plan to the legislative body.)*
  - b. *(Prepare and file annual reports with the legislative body.)*
  - c. *(The Planning Commission has the powers necessary to enable it to fulfill its functions, promote planning and execute the purpose of Article 66B.)*
  - d. *(Execute all powers conferred to Planning Commissions under Article 66B of the Annotated Code of Maryland and Article 25A to execute the powers of the article.)*
  - e. *(Recommend to public officials programs for public structure. improvements, land acquisition, and consult with others to protect and execute the plan to determine consistency with the master plan.)*
5. **Rules**: Though not specified in the zoning ordinance, the City has adopted Rules of Procedure for the Planning Commission. (*66B: The Planning Commission must adopt rules to assist the Planning Commission in carrying out its duties.*)

## **B. Board of Appeals**

The Board of Appeals is a local body of citizens appointed to review 1) appeals from administrative zoning decisions, 2) requests for variances from particular requirements of the zoning ordinance and 3) special exception requests. The Board is also a quasi-judicial body meaning they must meet all the requirements for a quasi-judicial body explained in Section I of this paper.

Sections 25-51 through 25-57 of the City Code govern the creation and duties of the Board of Appeals. The code outlines the membership, chairman, powers and duties, hearing procedures, and public notice requirements.

1. Membership: The Board consists of three (3) members with one (1) alternate member who is empowered to sit on the Board in absence of any member. *(66B: At least 3 members)*
2. Term: The term complies with Article 66B and is for three (3) years.
3. Chairman: The Board selects the Chairman from amongst its members according to the laws of Rockville.
4. Power and Duties: The powers and duties of the board are conferred upon it by the Rockville code and the provisions of State law.
  - a. The board shall adopt procedures that will govern its conduct.
  - b. The City has established expiration periods for decisions reached by the board.

The following are conferred by Article 66B:

- a. *(To hear and decide administrative appeals.)*
  - b. *(To hear and decide special exceptions.)*
  - c. *(To hear and decide variances)*
  - d. *(To authorize an appeal in specific variances.)*
5. Rules: Though not specified in the zoning ordinance, the City has adopted Rules of Procedure for the Board of Appeals. These procedures outline details on the filing of applications, notices, preparation of cases, hearings and meetings, reconsideration and rehearings, modifications of variances and other procedures. *(66B: The Board of Appeals must adopt rules to assist the Board of Appeals in carrying out its duties.)*

### **C. Historic District Commission**

The Historic District Commission reviews land use requests to preserve the appearance and character of historic sites in the community and makes recommendations on historic designations. Historic sites are designated as those that have been deemed to have historic, archeological, architectural, or cultural significance within the area served by the Commission.

The Historic District Commission is governed by Sections 25-71 through 25-75 of the City Code, Architectural Design Guidelines, and the Commission's adopted rules of procedures. The Commission follows Article 66B with respect to members, terms, qualifications, and duties.

1. Membership: Composition of the Board. There shall be five (5) members all of who have experience related to Historic Preservation. *(66B: At least 5 members)*

2. Term: The term of each member is three (3) years with staggered terms and with special knowledge.
3. Chairman: The Mayor, subject to confirmation by the Council, appoints the Chairman. The Chairman serves for one (1) year.
4. Duties and Powers: The powers of the Commission are conferred upon it by the Rockville City Code and the provisions of state law. *(66B: The Historic District Commission shall review exterior modifications, review proposed demolitions within historic districts, and adopts guidelines for modifications. Jurisdictions may designate boundaries for sites, structures, or districts provided they follow the procedures for reclassification of zoning areas.)*
5. Rules: Though not specifically required in the zoning ordinance, the Historic District has adopted rules of procedure. The Historic District Commission's rule of procedures govern the duties of the chairman, meeting procedures, voting, applications for certification of approval and review procedures, procedures for a courtesy review hearing, consultations with staff, evaluations of historic districts, procedures affecting property included or eligible to be included in the national register of historic places, and grant applications. *(66B: The Historic District Commission must adopt rules to assist the Historic District Commission in carrying out its duties.)*

#### **D. Sign Review Board**

The Sign Review Board is responsible for reviewing all applications involving the modification or installation of a sign in the City. The purpose of the Board is to ensure that all signs contribute to and maintain a high quality design in the City. Signs under the Board's review are all those requiring a sign permit (any type of permanent or temporary sign regulated under the law).

The establishment of the sign review board is through Section 25-81 of the City Code. Although Article 66B does not specifically mention sign review boards, the enabling legislation does confer upon the jurisdictions the duties and responsibilities to carry out the zoning regulations and sign requirements are part of the zoning ordinance.

1. Membership: Consist of three (3) members and one (1) alternate appointed by the Mayor with confirmation by the Council.
2. Term: Each member serves a three (3) year term.
3. Qualifications: Two members shall be business person operating a business within the City. Two members shall be residents of the city who have no vested interest in any business in the city or the sign industry. The alternate is first a resident of the city, then a business person and thereafter rotates.

4. Duties and Powers: The board is charged with reviewing a sign permit application and determining if it complies with the requirements and reviewing modification requests. The request for review can come from the applicant or the City. The board must make findings upon their decision.
5. Rules: There is no requirement in the current zoning ordinance or in the state legislation to adopt rules of procedure.

## **E. Mayor and Council**

Article 66B authorizes the local legislative body to make a number of land use decisions. In particular, the Council may:

1. Adopt comprehensive plans or geographic elements (neighborhood plans),
2. Approve comprehensive, sectional, or local map amendments
3. Review annual reports,
4. Adopt zoning and subdivision regulations,
5. Approve zoning reclassification based on mistake or change in the character of the neighborhood,
6. Authorize the Planning Director or another designee to grant administrative adjustments from the zoning ordinance for height, setback, bulk, parking or loading, dimension or area requirements,
7. Appoint members of local boards, and
8. Enact enforcement provisions.

The City Council reviews and approves certain Use Permits, Special Development Procedure applications, rezoning requests, and Historic District Applications. As part of this review, the Council must provide findings of fact to ensure that the proposed development meets the purpose and intent of the zoning district, especially in those cases where applicants are seeking additional residential density or floor area ratio. To ensure that the development meets the intent of the zoning district, the Council may require conditions on the approval of the development.

## **F. Other Approving Authorities**

City staff reviews applications and provides recommendations on development applications to the Board of Appeals, Planning Commission, Sign Review Board, and the Mayor and Council. For major development applications, staff's recommendations come after a project has gone through the Development Review Committee, which is made up of staff from the various City Departments. Once a project has addressed staff's concerns, a project may move forward in the development review process and go before the appropriate approving or recommending body.

A summary table of the Zoning Review Boards is provided in Table 1.

<b>Table 1: Zoning Review Boards</b>				
	<b>Planning Commission</b>	<b>Board of Appeals</b>	<b>Historic District Commission</b>	<b>Sign Review Board</b>
<b>Members</b>	7 members	3 & 1 alt.	5 members	3 & 1 alt.
<b>Appointed by</b>	MD Code 66B §3.02(b) – Mayor, & confirmed by Council	MD Code 66B §4.07(a) - Mayor, confirmed by Council	Mayor, Confirmed by Council	Mayor, confirmed by Council
<b>Chair</b>	MD Code 66B §3.03(a) – Selected by members for 1 year and eligible for re-election	Selected by members for 1 year and eligible for re-election	Selected by Mayor, confirmed by Council for 1 yr & eligible for re-election	Selected by Mayor, confirmed by Council
<b>Term</b>	5 years - staggered	3 years - staggered	3 years - staggered	3 years
<b>Qualification</b>		MD Code 66B §4.07(a) - Not a member of legislative body	By special interest, knowledge or training in certain fields; MD Code 66B §8.03 – majority must be residents of the city	2 businesspersons in city, 2 residents with no vested business interest
<b>Meetings</b>	MD Code 66B §3.03(b) – at least 1 regular meeting a month	Must hold hearing for any matter before it; MD Code 66B §4.07(c) -at chair's call & times determined by board	Must approve applications within 45 days of receipt or automatically granted.	Once every 6 weeks unless no business
<b>Quorum</b>			3 members	2 members
<b>Notice requirements</b>	MD Code 66B §3.07(b)	15 day written notice; 3 days after filing require sign posting on property		
<b>Issues before it</b>	Those outlined by MD Code §3.01 et seq. – comp plan, recommend zoning code, annual rpt	Appeals Variances Special Exceptions	MD Code 66B, 8.03(b)	Review & decide on sign permits, & modifications from sign regs
<b>Decision Time</b>		Decisions of Sign Review Board appeal within 10 days from hearing	45 days or automatically approved	10 days after hearing
<b>Conditions?</b>	Yes	Yes	Yes	Yes
<b>Written decision</b>		Written notice for variance or appeals	Minutes, certificate of approval.	Yes, for denial
<b>Appeal</b>	Use permits or property owned/sold by county to Council, then Circuit Court; all else to Circuit Court under MD Rules	MD Code 66B §4.08 – to the Circuit Court under MD Rules	To Circuit Court under MD Rules	To BOA w/in 10 days from decision – review de novo no later than 45 days after filing

### **III. TIMEFRAMES FOR REVIEWS AND DECISIONS**

The zoning ordinance and the Rules of Procedure adopted by each board may establish requirements for when review must occur and when decisions must be made. The method by which to calculate these dates must be clear. Currently, time is calculated as beginning the day after filing and is based on calendar days (not on business days). For example if an application is filed on Monday, January 1, a 30 day due date for review would be up on Tuesday, January 31.

#### **A. Planning Commission Timeframes**

Article 66b (3.07) establishes procedures to be used by the Planning Commission during adoption of a Comprehensive Plan. Key timeframes identified there are for:

- Public Notice Requirements
- Sixty (60) days prior to the public hearing, the Planning Commission shall provide copies to all adjoining jurisdictions.

#### **B. Board of Appeals**

For the preparation of the cases, time frames have been established for the Board of Appeals and for other bodies providing information to the Board.

- For non-residential zoning variances, the request will be heard a minimum of sixty (60) days following the filing of the application.
- The Planning Commission must make a recommendation within fifty (50) days from notification of a filing and the Commission's recommendation must be placed in the file at least eight (8) days prior to the public hearing.
- There are time frames for when staff must provide the board with briefing materials, at least eight (8) days prior to the scheduled meeting.
- Reconsiderations and re-hearings also have certain deadlines along with how those requests shall be made.

#### **C. Mayor and Council**

Section 3.08 of Article 66B also provides time frames for mandatory referral and plan adoption by the Mayor and Council

- The Planning Commission has sixty (60) days to act on a submission otherwise it shall be considered approved.
- If the local legislative body fails to act within sixty (60) days from the date of the Planning Commission submission, the plan is considered approved.

There are a number of other areas of the ordinance where time frames may be provided. The Charles County Zoning Ordinance, for instance, strongly regulates the timeframes for text and map amendments to their code. These sections clearly identify how long each agency or approving body has to review and prepare staff reports, and when decisions must be made. Examples of time frames included in the Charles County local map amendment process include:

- The Planning Commission has 45 days to schedule a public hearing date upon filing of a complete application.

- Fifteen days prior to the Planning Commission public hearing, the zoning officer shall complete a written report and recommendation.
- Within 60 days of the closing of the Planning Commission public record, the Commission must transmit its report and recommendation to the County Commissioners.
- Within 60 days of receiving the Planning Commission report, the County Commissioners must establish the public hearing date.
- The County Commissioners have 60 days from the close of the public hearing to issue a written decision, denying or granting the application, along with findings of fact and a conclusion.

The procedures and time frames for review can be placed in a separate section of the ordinance or included with each section requiring some specific review.

#### **IV. COMPARATIVE DEVELOPMENT PROCESSES**

Staff has reviewed five jurisdictions to identify areas where approval processes may differ from current processes used by the City. These jurisdictions are the City of Frederick, City of Annapolis, Town of Easton, City of Gaithersburg, and Montgomery County Park and Planning Commission. From these studies, it is clear that Rockville's major review procedures (site plan approval and planned development processes) are comparative to other jurisdictions' processes.

Basic planning and land use regulations are often contained in the zoning ordinance and subdivision regulations adopted by the jurisdiction. Each jurisdiction may institute its own process for approving site plans, subdivisions plans, rezoning, and other approvals provided that the basic requirements contained in state and local law are followed. Therefore, if a jurisdiction chooses to add additional steps it may do so provided that the enabling legislation is followed.

In Rockville, the Planning Commission typically reviews and approves preliminary subdivisions plans, final plats and site plans. The elected officials approve base rezoning applications, floating zones, and PUD's with a recommendation from the Planning Commission. Once the elected officials have made their decision on the zone reclassification, it is then the responsibility of the Planning Commission and staff to enforce the provisions of the approvals. There are variations in every municipality. For example in the City of Annapolis, the City Council approves zoning map and text amendments while the Board of Appeals makes decisions on Special Mixed Planned Development and Residential Planned Developments.

##### **A. Major Site Plan Approval Process**

Site Plans or Use Permits may either be approved administratively by staff, by the Planning Commission and in some cases by the City Council under 66B. Minor site plans are often approved at the staff level and in some cases major site plans are approved administratively. This is possible when the zoning ordinance clearly states the various requirements for such standard items as parking requirements, setbacks, landscaping, buffering, FAR's, and design requirements.

The City of Annapolis allows the Director of Planning and Zoning to approve major and minor site plans. A major site plan is defined as anything that involves new construction, alternations that increase gross floor area by 20% or where the number of parking spaces is increased greater than 20%. Minor site plans are anything not a major. The site plan review process contains three stages: pre-application conference, preliminary plan and final plan. The Planning Director may recommend a public meeting on the preliminary and/or final plan or the director may recommend that the Planning Commission conduct the meeting.

The Town of Easton also has major and minor site plan requirements with major site plans being approved by the Planning Commission. Site plan approval is a three (3) step process: sketch, preliminary and final Site Plans. The Planning Commission reviews the preliminary and final site plans before approving the final site plan. The key in this step is the sketch plan where the Planning Commission offers comments on the general concepts, use and design of the proposal. Sketch Plan approval is valid for two (2) years and confers approval for the number of residential dwelling units, the general type and the amount and type of non-residential gross floor area.

<b>Major Site Plan Review – Comparative Maryland Jurisdictions</b>					
<b>Jurisdiction</b>	<b>Planning Director</b>	<b>Planning Commission</b>	<b>Board of Appeals</b>	<b>City Council</b>	<b>Circuit Court</b>
City of Frederick	Review	Decision			Appeal
City of Annapolis	Decision		Appeal		
City of Easton	Review	Decision			
City of Gaithersburg	Review	Decision			
MNCPPC	Review	Public Hearing- Decision			
City of Rockville	Review	Decision and/or Recommendation		Decision certain items	

## **B. Planned Development Application Process:**

Jurisdictions are authorized by Article 66B to allow Planned Developments. Discussed more thoroughly in the Optional Method / Special Development Procedures paper, these alternative methods of development allow for use and/or density variations from the underlying zoning requirements.

These applications technically allow for property to be rezoned. As a result, they follow the same process as a rezoning would, with a review and recommendation by the Planning Commission and the final decision being made by the elected officials such as the City Council or County Commissioners. These types of applications are not required to adhere to the “change or mistake rule.” The “change/mistake rule” is a requirement in Maryland that rezoning of a property must be based on a finding that there was a mistake in the original zoning or that the character of the neighborhood changed to an extent, which justifies the amendatory action. It is

presumed that the original zoning was well planned, and designated to be permanent. That is why such a strict standard must be met to allow for a rezoning.

Often, once the elected officials have made the their decision, implementation of the approved zone is accomplished by the Planning Commission through their review of detailed applications, site plans, and subdivision plans. If there are major amendments proposed to a previously approved application, then the Council/Commissioners would hear and decide an amendment request.

<b>Planned Development Review – Comparative Maryland Jurisdictions</b>					
<b>Jurisdiction</b>	<b>Planning Director</b>	<b>Planning Commission</b>	<b>Board of Appeals</b>	<b>City Council</b>	<b>Circuit Court</b>
City of Frederick	Review	Recommendation		Decision	
City of Annapolis	Review	Recommendation	Decision		
City of Easton	Review	Recommendation		Decision	
City of Gaithersburg	Review	Recommendation		Decision	
MNCPPC	Review	Recommendation	Hearing Examiner Public Hearing	Decision	
City of Rockville	Review	Recommendation		Decision	

In Rockville, previous discussions of the zoning revision have proposed consolidating the current special development procedures into two development options. The first, the “amenity development option” (ADO) will have different levels of approval, based on certain qualifying features of the property to be developed. While the particulars will be developed in the drafting stage of the revision, the approval bodies will be either 1) staff or 2) the Planning Commission. The division of labor between these two approval bodies for the APO will be based on 1) the size of the development proposed, and 2) the impact of the development (whether it is located next to or in a residential community).

The second special development option proposed for the revision, the “planned development option” (PDO) will be based on the current process for Planned Residential Unit Developments in the City. The process is outlined on the chart above.

## **V. RECOMMENDATION**

Staff from various City departments has met to discuss the matter of approving bodies in the City of Rockville. As a result of this discussion, staff recommend the following changes with regard to the zoning revision:

## **A. Approving Bodies in the City of Rockville**

1. Include the same type of requirements of each Board in the ordinance (though actual requirements will differ from board to board). There should be as much parallelism with regard to board requirements in the ordinance, as possible. Staff recommends that many of the current regulations be maintained in the ordinance. Where there are not the same requirement topics in each section, staff recommends including state law or the requirements listed in the Rules of Procedure for that particular board.
2. No new boards should be created. Additional boards would only require applicants to submit themselves to more procedures before the request can be approved. The current boards and commissions of the City should remain in place and are adequate to address all issues of review.

## **B. Timeframes**

There should be a greater time frame between Planning Commission decisions and Mayor and Council discussions of issues. While this standard will not likely appear in the zoning ordinance, it is related to the processes included in the zoning ordinance and is raised now. One consideration would be to place this requirement in the Rules of Procedure for the Planning Commission under scheduling of hearings. An alternative is to have this be an unwritten policy of the City. When an issue comes into be put on the Mayor and Council's agenda, it should be scheduled with enough time to allow Planning Commission to review before Mayor and Council action.

## **C. Administrative Adjustments**

Include the ability to make administrative adjustments in the revision. Staff had previously recommended postponing the adoption of administrative adjustment regulations in the current revision until criteria about what can be adjusted could be drafted. The key to incorporating these adjustments is criteria for approval. Procedures must be established for approval and application and allow for notice, an opportunity for a public hearing and appeal of the decision. These allowances will not provide the Chief of Planning or other designee with carte blanche zoning approval. Instead, included in the zoning regulations will be:

1. Standards for maximum variation from a zoning requirement (for example, up to 20% increase or decrease of a requirement);
2. A qualification of properties permitted to receive an administrative approval (for example, all properties or only mixed use and residential properties); and
3. Criteria to be found for approval of an adjustment (for example, the granting will not be detrimental to the public safety or welfare).

## **D. Processes**

Maintain the various process for approval included in the current zoning regulations for the majority of land use decisions. Three particular recommendations for modification include:

1. No longer require the Planning Commission to comment on applications for variance applications though they will be provided the opportunity to do so if they chose and they will still be required to comment on applications of special exceptions. The Planning Commission must comment on applications for special exceptions but will not be required to review variance applications to be heard first. Other jurisdictions allow Planning Commission comment on these types of applications, but do not require such comment. Rockville should continue requiring comment for special exception requests but allowing comment on variance requests only where deemed necessary.
2. Clarifying roles of boards and commissions. Included in the purpose statement for each board or commission will be a statement of their role in land use decisions. The Mayor and Council are responsible for broad policy decisions (Planned Development Option, land use legislation, and adoption of Master Plan); the Planning Commission reviews site layout and general interpretations of land use issues; and the Board of Appeals reviews particular issues of land use regulation.

For example, where a special exception is reviewed by the Planning Commission, the initial review should be limited to consistency with the standards and requirements and Master Plan compliance, not as an entire site plan review discussion. When the special exception is approved by the Board of Appeals and is brought back before the Planning Commission as part of a Use Permit review, the Planning Commission must review that special exception, in the context of the constraints placed on it by the Board of Appeals. While this is not a problem in the City, staff would like to clarify these roles in the revised ordinance language.

3. Continue to develop new methods for approval for the Special Development Procedures. As discussed in a separate white paper, continue to develop the newly proposed procedures of the Amenity Development Option (ADO) and the Planned Development Procedure (PDP).

## **VI. CONCLUSION**

The approving bodies of the City of Rockville are the implementation team of the zoning ordinance. The broad policies established by the Mayor and Council are made into law or adopted as additional policy (such as plans and guidelines). All other boards are appointed to advise and implement the policies of Mayor and Council. The Planning Commission, appointed solely to make plans, administer land use requirements, then review cases on an individual basis to administer these policies and regulations. Individual boards (Board of Appeals, Historic District Commission, and Sign Review Board) then take these policies further and address particular issues.

Together, all the boards and commissions of the City deal with policy issues regarding the development and implementation of the Comprehensive Plan, subordinate plans, and zoning. These bodies also address infrastructure requirements such as ensuring that adequate services are available for each applicant development. With regard to transportation, for instance, approving bodies of a site plan

(Planning Commission and possibly Mayor and Council) would addresses transportation policy as it relates to land use such as concurrency, road and street designations, and level of service.

**VII. ATTACHMENTS:**

1. City of Rockville Board of Appeals Procedures
2. City of Rockville Historic District Procedures.
3. City of Rockville Planning Commission Procedures.
4. Charles County Text and Map Amendment Zoning Text.
5. Tables 2 and 3 – Current Time Filing and Notice Requirements
6. Annapolis Zoning Ordinance, Administrative Adjustments, Chapter 21.18.